

Atty. Docket No. YOR920000440US1  
(590.024)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 14 2005

In re Application of : Cohen et al.  
Serial No. : 09/670,250 Examiner : O. Rojas  
Filed : August 28, 2000 Art Unit : 2874  
For : OPTICAL FIBER SPACE TRANSFORMATION

March 14, 2005

**RESPONSE TO RESTRICTION REQUIREMENT**

I hereby certify that this correspondence and any documents referred to as enclosed therewith are being transmitted by facsimile to the Commissioner for Patents on facsimile number (703) 872-9306 on March 14, 2005.

  
Stanley D. Ference III  
Reg. No. 33,879

March 14, 2005  
Date of Signature

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This is responsive to the Office Action dated January 13, 2005, for the above-identified application. The fact that March 13, 2005, fell on a Sunday ensures that this paper is timely filed as of Monday, March 14, 2005, the next business day.

The Examiner has asserted that Claims 1-8 and 10-22 drawn to an apparatus and method comprising adapting an optical fiber having a particular bending radius (Group I) and Claims 23-30 drawn to a method comprising an optical waveguide etched from a

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glass sheet and having a particular bending radius (Group II) are directed to patentably distinct species of the claimed invention. The Examiner has required Applicant to elect one group of claims for prosecution.

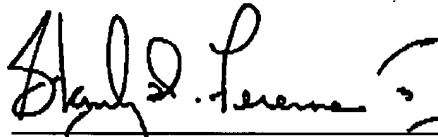
There is no asserted basis for the assertion that each group is a patentably distinct species of the claimed invention. As such, Applicants believe the Office meant to assert that each group is a patentably distinct invention. See 35 USC 121 ("If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions"). In any event, Applicants respectfully traverse the restriction requirement. Accordingly, Applicants respectfully request the restriction requirement be withdrawn and all claims be examined at this time. In the event the restriction requirement is not withdrawn, Applicants provisionally elects the claims of Group I (e.g., Claims 1-8 and 10-22).

Applicants, however, also asserts that even if the restriction requirement is not withdrawn, the claims of both Groups I and II should be examined at the same time under MPEP § 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions"). The present application was filed in August 2000, and has been prosecuted since that time, including the issuance of several Office Actions, until the present restriction requirement was imposed. All claims subject to the restriction requirement were present in the application as filed. Throughout this prosecution, there has been no indication that there is a serious burden in searching or examining the claim of the application. See MPEP § 904.02(a) ("In outlining a field of

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search, the examiner should note every class and subclass under the U.S. Patent Classification system and other organized systems of literature that may have material pertinent to the subject matter as claimed. Every subclass, digest, and cross-reference art collection pertinent to each type of invention claimed should be included, from the largest combination through the various subcombinations to the most elementary part. The field of search should extend to all probable areas relevant to the claimed subject matter and should cover the disclosed features which might reasonably be expected to be claimed.") As such, there can be no credible assertion there would be a serious burden in searching and examining the claims of both Groups I and II in the same application.

Respectfully submitted,



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